

Message Text

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TO AMEMBASSY MOSCOW PRIORITY

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EXCON

E.O. 11652: N/A

TAGS: ESTC, US, UR

SUBJECT: CHANGES IN U.S. EXPORT CONTROL REGULATIONS

REF: A. MOSCOW 10532, B. MOSCOW 10981, C. MOSCOW 11199

A.

THE 1977 AMENDMENTS TO THE U.S. EXPORT ADMINISTRATION ACT ARE BASICALLY PROCEDURAL IN NATURE AND REFLECT NO FUNDAMENTAL REVISION OF U.S. POLICY ON EXPORT CONTROLS. LISTED BELOW ARE MAJOR PROVISIONS OF THE AMENDMENTS:

1. IN ADMINISTERING CONTROLS FOR PURPOSES OF NATIONAL SECURITY, U.S. POLICY TOWARD ANOTHER COUNTRY SHOULD NOT BE DETERMINED EXCLUSIVELY BY WHETHER THAT COUNTRY IS COMMUNIST OR NON-COMMUNIST, BUT SHOULD TAKE INTO ACCOUNT SUCH FACTORS

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AS THE COUNTRY'S PRESENT AND POTENTIAL RELATIONSHIP TO THE UNITED STATES, ITS PRESENT AND POTENTIAL RELATIONSHIP TO COUNTRIES FRIENDLY OR HOSTILE TO THE UNITED STATES, ITS ABILITY AND WILLINGNESS TO CONTROL RETRANSFERS OF U.S. EXPORTS IN ACCORDANCE WITH U.S. POLICY, AND SUCH OTHER FACTORS AS THE PRESIDENT MAY DEEM APPROPRIATE. PERIODIC REVIEW OF POLICY TOWARD INDIVIDUAL COUNTRIES IS MANDATED.

2. CONTROLS SHALL NOT BE IMPOSED FOR NATIONAL SECURITY PURPOSES ON COMMODITIES WHICH ARE AVAILABLE WITHOUT

RESTRICTION FROM SOURCES OUTSIDE THE U.S., UNLESS IT IS DETERMINED THAT THE ABSENCE OF SUCH CONTROLS WOULD PROVE DETRIMENTAL TO THE NATIONAL SECURITY OF THE UNITED STATES. INITIATION OF NEGOTIATIONS TO ELIMINATE SUCH FOREIGN AVAILABILITY COULD RESULT FROM SUCH A DETERMINATION.

3. THE STANDARD GOVERNING THE DEFENSE DEPARTMENT'S REVIEW OF EXPORT LICENSE APPLICATIONS IS REVISED FROM AN ASSESSMENT AS TO WHETHER AN EXPORT WILL SIGNIFICANTLY INCREASE THE MILITARY CAPABILITY OF THE COUNTRY IN QUESTION TO AN ASSESSMENT AS TO WHETHER THE EXPORT WILL SIGNIFICANTLY INCREASE THE RECEIVING COUNTRY'S MILITARY POTENTIAL, NOT NECESSARILY ITS PRESENT CAPABILITY,

4. EXPORT LICENSE APPLICATIONS SHALL BE ACTED UPON WITHIN 90 DAYS OF RECEIPT. IF FINAL ACTION IS NOT TAKEN WITHIN 90 DAYS, THE LICENSE SHALL BE ISSUED, UNLESS IT IS FOUND THAT ADDITIONAL TIME IS REQUIRED AND THE APPLICANT IS NOTIFIED OF THE SPECIFIC CIRCUMSTANCES REQUIRING ADDITIONAL TIME AND THE ESTIMATED DATE WHEN FINAL ACTION WILL BE TAKEN. FURTHERMORE, THE APPLICANT IS TO BE AFFORDED AN OPPORTUNITY TO RESPOND TO QUESTIONS OR NEGATIVE CONSIDERATIONS CONCERNING LIMITED OFFICIAL USE

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ING HIS APPLICATION.

5. WITHIN ONE YEAR AFTER PASSAGE OF THE ACT, THE EXECUTIVE BRANCH IS TO REVIEW THE RULES AND REGULATIONS ISSUED UNDER THE ACT, AND THE LISTS OF CONTROLLED COMMODITIES, IN ORDER TO FACILITATE COMPLIANCE BY SIMPLIFYING SUCH RULES AND REGULATIONS, AND BY SIMPLIFYING OR CLARIFYING SUCH LISTS.

6. THE COMMERCE DEPARTMENT IS REQUIRED TO INVESTIGATE WHETHER U.S. CONTROLS, OR THE MULTILATERAL CONTROLS IN WHICH THE U.S. PARTICIPATES, SHOULD BE REMOVED, MODIFIED, OR INCREASED WITH RESPECT TO INDIVIDUAL COMMODITIES IN ORDER TO PROTECT THE NATIONAL SECURITY OF THE UNITED STATES

7. COMMERCE IS FURTHER DIRECTED TO STUDY THE PROBLEMS ASSOCIATED WITH THE TRANSFER OF TECHNICAL DATA, TO ASSESS THE IMPACT OF THE EXPORT OF SUCH DATA ON THE NATIONAL SECURITY AND FOREIGN POLICY OF THE UNITED STATES, TOGETHER WITH RECOMMENDATIONS FOR MONITORING SUCH EXPORTS WITHOUT IMPAIRING FREEDOM OF SPEECH, FREEDOM OF THE PRESS, OR FREEDOM OF SCIENTIFIC EXCHANGES.

B.

ON BALANCE, IT IS BELIEVED THAT THE 1977 AMENDMENTS TO THE EXPORT ADMINISTRATION ACT SHOULD RESULT IN HELPING, NOT HINDERING THE U.S. BUSINESSMAN IN TRADE WITH COMMUNIST COUNTRIES. DURING THE COMMISSION MEETINGS, DEPUTY

MINISTER MANZHULO STATED THAT UNDER THE NEW ADMINISTRATION EXPORT LICENSE APPLICATIONS REQUIRE TWO OR THREE MONTHS LONGER FOR PROCESSING. THIS IS NOT TRUE. AS DETAILED IN POINT 4 ABOVE, THE LANGUAGE OF THESE AMENDMENTS SHOULD HAVE A SALUTARY EFFECT IN THAT THEY MANDATE THAT CASES BE PROCESSED WITHIN 90 DAYS, OR THAT AN EXPLANATION FOR THE DELAY BE GIVEN TO THE APPLICANT.

C.

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IN HIS CALL ON SOVIET MINISTER OF FOREIGN TRADE PATOLICHEV, THE AMBASSADOR MAY WISH TO MENTION RECENT POSITIVE DEVELOPMENTS IN U.S.-SOVIET TRADE RELATIONS:

--PRESIDENT CARTER IN HIS SPEECH IN CHARLESTON IN MID-JULY SOUNDED AN UPBEAT NOTE ON U.S.-SOVIET TRADE RELATIONS. HE SAID THAT INCREASED TRADE BETWEEN THE U.S. AND THE SOVIET UNION WOULD HELP US BOTH AND THAT HE HOPED CONDITIONS CAN BE CREATED THAT WILL MAKE POSSIBLE STEPS TOWARD EXPANDED TRADE.

--OUR BILATERAL CONSULTATIVE PROCEDURES HAVE REGAINED MOMENTUM WITH THE HOLDING OF THE JOINT COMMERCIAL COMMISSION MEETING IN JUNE, AFTER SOME DELAY, AND WITH THE INFORMAL MEETING IN JULY ON BUSINESS FACILITATION MATTERS, IN ACCORDANCE WITH THE AGREEMENT REACHED AT THE JCC MEETING.

--WE TOLD THE SOVIET TRADE REPRESENTATION IN JULY THAT WE WERE PREPARED TO CONSIDER FAVORABLY THE SOVIET REQUEST TO OPEN A REPRESENTATIVE BANKING OFFICE IN NEW YORK.

--WE RECENTLY PROPOSED NEGOTIATIONS OF AN AGREEMENT FOR PROMOTION OF TOURISM. CHRISTOPHER

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